

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NORTH CAROLINA  
WESTERN DIVISION  
No. 5:13-cv-102-FL

DONNIE POWELL, )  
 )  
 Plaintiff, )  
 )  
 v. ) ORDER  
 )  
 CAROLYN COLVIN, )  
 Acting Commissioner of Social Security, )  
 )  
 Defendant. )  
 )

Plaintiff's counsel filed a motion for approval of attorney's fees under section 206(b) of the Social Security Act, 42 U.S.C. § 406(b), in the amount of \$9,500.00. Attorney's fees under section 206(b) are paid from past-due benefits awarded to a successful claimant. 42 U.S.C. § 406(b). Plaintiff has previously been awarded attorney's fees under the Equal Access to Justice Act (EAJA), 28 U.S.C. § 2412, in the amount of \$3,841.08 (D.E. #28).

Defendant filed a response, stating that under Gisbrecht v. Barnhart, 535 U.S. 789 (2002), it is the duty of the Court to determine a reasonable fee.

It is ORDERED that Plaintiff's counsel be awarded fees under 42 U.S.C. § 406(b) in the amount of \$ 9,500.00, and refund to Plaintiff the smaller award between this amount and the EAJA award, minus \$855.35 which counsel represents was seized for debt to Veterans' Administration.

This 7th day of January, 2015.

*David W. Flanagan*

LOUISE W. FLANAGAN  
UNITED STATES DISTRICT JUDGE